

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

NOVATO UNIFIED SCHOOL DISTRICT,
LARKSPUR-CORTE MADERA SCHOOL
DISTRICT, AND REED UNION SCHOOL
DISTRICT.

OAH CASE NO. 2014090047

ORDER DENYING REQUEST FOR
CONTINUANCE

On November 5, 2014, the Novato Unified, Larkspur-Corte Madera, and Reed Union school districts moved to continue the due process hearing in this matter on the grounds that on October 27, 2014, Novato received permission from Parents to assess Student for the first time, and will be unable to complete the assessment and hold an individualized education program team meeting on the assessment results before the due process hearing in this matter, now set for November 18, 2014. On November 10, 2014, Student filed an opposition to the request.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Denied. All prehearing conference and hearing dates are confirmed and shall proceed as calendared. The amended complaint filed on September 22, 2014, pleads a series of events in the last two years involving all three districts. The involvement of Larkspur and Reed has terminated, and nothing about the new assessment will affect their liability, if any, for past conduct. Nor will a new assessment affect Novato's liability, if any, for past conduct. Novato's relationship with Student and Parents is continuing, and many events such as assessments and IEP team meetings may take place in the near future, but none of them is grounds to delay the instant hearing. The expected assessment may govern Student's next IEP offer, but it has no apparent relationship to the past liability of any of the three districts.

IT IS SO ORDERED.

DATE: November 12, 2014

/s/

CHARLES MARSON
Administrative Law Judge
Office of Administrative Hearings